

Decision 05-01-023 January 13, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the STATE COASTAL CONSERVANCY for an order authorizing the construction of a pedestrian-bikeway trail crossing at-grade of the Sonoma Baylands Trail, near Port Sonoma, Sonoma County, and the tracks of the Sonoma Marin Area Rail Transit (SMART) Commission, Milepost 1085H-29.57, Sonoma Branch Mainline.

Application 04-08-027
(Filed August 23, 2004)

O P I N I O N

Summary

This decision grants the request of The State of California, State Coastal Conservancy (Conservancy) to construct an at-grade bicycle/pedestrian crossing (crossing) over the tracks of the Sonoma Marin Area Rail Transit Commission (SMART). The crossing will be identified as California Public Utilities Commission (CPUC) Crossing No. 1085H-29.57.

Discussion

The Conservancy requests authority to build an at-grade bicycle/pedestrian crossing within an existing private crossing across the tracks of SMART at approximate milepost 29.57, near Port Sonoma in Sonoma County. The Sonoma Baylands Enhancement Project (Project) is an 830-acre property fronting San Pablo Bay between the Petaluma River and Lakeville Highway/Reclamation Road, just south of State Highway 37, and the SMART rail line on the north. Public access to the San Francisco Bay shoreline is one of

the Conservancy's principal legislative charges. Because of the high degree of local interest in the Project, the Conservancy expects a regular demand for access to the site. This demand is not expected to be high, however, due to the remoteness of the site and limited public parking. The Conservancy expects visitors to be mostly recreationists, bird watchers and a few bicyclists.

The only public access to the Project is across the SMART tracks, because the new wetland is bounded on the south by San Pablo Bay and on the north by the railroad tracks. The proposed at-grade crossing will consist of a 10-foot wide asphalt-concrete pathway with a 10-foot long concrete panel surface at the crossing. Fencing will be installed on both sides of the crossing to deter trespassing along the railroad right-of-way. There is a future provision for cattle guards on both sides of the crossing should trespassing along the railroad right-of-way become a problem. The crossing will provide access to the San Francisco Bay shoreline and enable bicyclists and pedestrians to cross the tracks at right angles, providing better bicycle orientation and maximum visibility.

Warning devices will consist of two CPUC Standard No. 8 (flashing light signals), pavement markings, and W10-1 advanced warning signs in both directions approaching the crossing. The Conservancy will modify the Standard No. 8 warning devices by installing one CPUC Standard No. 1-D (pedestrian and bicycle railroad grade crossing sign, as defined in General Order 75-C) sign, in lieu of the "RAILROAD CROSSING" (Crossbuck) sign, below each pair of flashing light signals facing the approaches to the crossing.

There is currently no rail service on this line.

The Conservancy states that grade separating this location is not practicable due to the proximity of the bay levee and low water table.

The Conservancy is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resource Code Section 21000 et seq. On July 22, 2004, the Conservancy filed a Notice of Exemption with the State Clearinghouse.

The Conservancy found that the project is exempt from CEQ review under CEQA Guideline Section 15304(h). Section 15304(h) exempts the creation of bicycle lanes on existing rights-of-way.

The Commission is a responsible agency for this project under CEQA (Public Resources Code Section 21000 et seq.). CEQA requires that the Commission consider the environmental consequences of a project that is subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's Environmental Impact Report or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15059(b)). The specific activities that must be conducted by a responsible agency are contained in CEQA Guideline Section 15096.

We have reviewed the lead agency's Notice of Exemption for the project and find that it is adequate for our decision-making purposes. We also find that this project is categorically exempt from the requirements of CEQA pursuant to Section 15304(h) under the CEQA Guidelines. Safety, transportation, and noise are within the scope of the Commission's permitting process.

The Commission's Rail Crossings Engineering Section (RCES) inspected the site and examined the need for, and safety of, the crossing. RCES recommends that the requested authority sought by the Conservancy be granted for a period of two years.

Application 04-08-027 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to the construction of a public highway across a railroad.

Categorization and Need for Hearings

In Resolution ALJ 176-3138 dated September 2, 2004 and published in the Commission Daily Calendar on September 3, 2004 the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given these developments it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3138.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on August 24, 2004. No protests have been filed.
2. The Conservancy requests authority, under Public Utilities Code Sections 1201-1205, to construct a new at-grade bicycle/pedestrian crossing across the tracks of SMART, to be identified as CPUC Crossing No. 1085H-29.57.
3. The proposed at-grade crossing will provide access to the San Francisco Bay shoreline and enable bicyclists and pedestrians to cross the tracks at right angles providing better bicycle orientation and maximum visibility.
4. Public convenience, safety, and necessity require the construction of the crossing in Sonoma County.

5. Public safety requires that the crossing be equipped with two CPUC Standard No. 8 warning devices (flashing light signals) (modified), pavement markings, and advance warning signs.

6. The Conservancy is the lead agency for this project under CEQA, as amended.

7. On July 22, 2004, the Conservancy filed a Notice of Exemption with the State Clearinghouse finding that the project is exempt from CEQA under Section 15304(h) of the CEQA Guidelines.

8. The Commission is a responsible agency for this project, has reviewed the Conservancy's environmental documents and finds them adequate for our decision-making purposes. We also find the project is categorically exempt from CEQA under CEQA Guideline Section 15304(h).

9. Safety, transportation, and noise are within the scope of the Commission's permitting process.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.
2. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The State of California, State Coastal Conservancy (Conservancy) is authorized to construct a new at-grade bicycle/pedestrian crossing (crossing) across the tracks of the Sonoma Marin Area Rail Transit Commission (SMART) at the location as shown on the plans attached to the application, identified as California Public Utilities Commission (CPUC) Crossing No. 1085H-29.57.

2. The Conservancy shall install two CPUC Standard No. 8 warning devices (flashing light signals), pavement markings, and advance warning signs. The Conservancy shall modify these warning devices by installing the CPUC Standard No. 1-D (pedestrian and bicycle railroad grade crossing sign, as defined in GO 75-C) sign below the flashing light signals, in lieu of each "RAILROAD CROSSING" (Crossbuck) sign.

3. The Conservancy shall comply with all applicable General Orders, Manual on Uniform Traffic Control Devices, and CalTrans Highway Design Manual.

4. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between the Conservancy and SMART (parties). Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

5. Within 30 days after completion of this project, SMART shall notify the Commission's Rail Crossings Engineering Section in writing by submitting a completed Standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations) that the authorized work is completed.

6. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

7. This application is granted as set forth above.

8. Application 04-08-027 is closed.

This order becomes effective 30 days from today.

Dated January 13, 2005, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners